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July 19, 2011

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: July 15, 2011 Ex Parte Meeting
[REDACTED] **Summary of Argument in this Case**

Sandwich Isles Communications, Inc., Petition for Reconsideration,
Wireline Competition Bureau, Docket No. 09-133

Dear Ms. Dortch:

On July 15, 2011, Al Hee and Janeen Olds of Sandwich Isles Communications, Inc. ("SIC"), Walter Raheb of Roberts, Raheb and Gradler LLC, and James Stenger and the undersigned of Chadbourne & Parke LLP met with Austin Schlick, Sharon Gillett, Diane Griffin Holland, Pamela Arluk, Geoffrey Blackwell and Irene Flannery of the Commission to discuss the status and timeframe for resolving the pending SIC Reconsideration Petition, SIC's April 25, 2011 filing providing responses to certain Bureau requests for additional information, [REDACTED]

SIC discussed that [REDACTED] when a fiber strand is in use to provide different categories of service, the cost of the fiber must be allocated in accordance with the proportion of services provided. Because the bandwidth of fiber is limited only by the optical interfaces, no consideration is given to the amount of capacity on the fiber as spare. This is analogous to NECA's Spare Fiber Guidelines, which say the same thing with regard to a fiber sheath where multiple fiber pairs exist.

SIC discussed the relationship between the "used and useful" doctrine and NECA's Spare Fiber Guidelines. The Spare Fiber Guidelines provide that where spare fiber exists costs are to be apportioned on the same basis as the fiber that is in-use. These guidelines have been in place since 2004. The Spare Fiber Guidelines are either consistent with the "used and useful" doctrine or they are not. No party in this proceeding has suggested that they are not. Therefore they are consistent with "used and useful." In fact, the Spare Fiber Guidelines are the application of "used and useful" where spare fiber is concerned. In this proceeding the Bureau should confirm that the Spare Fiber Guidelines are consistent with the "used and useful" doctrine and apply to all carriers, including SIC.

NECA's argument that the Commission should first apply the "used and useful" doctrine and then the Spare Fiber Guidelines does not hold water if the Spare Fiber Guidelines themselves embody "used and useful." Likewise, the Bureau should reject NECA's contention that it is "too late" in the proceeding to apply the Spare Fiber Guidelines as inconsistent with NECA's obligation to treat member carriers equally. [REDACTED]

[REDACTED] In 2004, NECA adopted a fourth allocation methodology (the Spare Fiber Guidelines), and therefore NECA is obligated to accept the Spare Fiber Guidelines cost allocation methodology for all member companies, including SIC.

[REDACTED] This is to ensure uniformity of treatment by NECA of member carriers. NECA failed to follow those procedures and therefore it must be concluded that no legitimate questions existed that the Spare Fiber Guidelines fully resolved any issues as to how to apply the "used and useful" standard to fiber deployments. NECA simply refused to compensate SIC for costs that had unquestionably been incurred.

SIC discussed that NECA was obligated to advise the Bureau of its Cost Manual [REDACTED], the Spare Fiber Guidelines, [REDACTED] and did not. Instead, NECA provided the Bureau only with outdated precedents applying the "used and useful standard" whereas the Cost Manual and the Spare Fiber Guidelines contain the current application of that standard to fiber deployments. SIC discussed that, after an initial dispute with NECA over access to the Cost Manual and Spare Fiber Guidelines was resolved, SIC obtained access to the relevant information and, in turn, provided it to the Commission. Nevertheless, SIC suggested that the Bureau consider whether to require that all items of NECA decisional significance (*e.g.*, its rules and regulations) be made public on a going forward basis.

Should additional information be necessary in connection with this matter, please do not hesitate to contact the undersigned.

Respectfully submitted,



Dana Frix
James A. Stenger
Counsel to Sandwich Isles Communications, Inc.

Encl. [REDACTED]

Cc: Austin Schlick
Sharon Gillett
Diane Griffin Holland
Pamela Arluk
Geoffrey Blackwell
Irene Flannery